

Remarks/Arguments

Claims 44-47 and 49-51 are pending in this application. Claim 44 has been amended for clarity. The Specification has been amended provide assurances that the deposit will be available to one skilled in the art, as per the Examiner's request. The foregoing amendments in the claims are of formal nature and do not add new matter.

The rejections to the claims are respectfully traversed.

35 USC § 112, First Paragraph

Claims 44-47 and 49-51 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicants submit that claim 44 has been amended so that the claim comprises the steps (a), (b), (c) or (d) and should now be definite. Accordingly, this rejection should be withdrawn.

35 USC § 112, First Paragraph

Claims 44-47 and 49-51 are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the Examiner says that the deposit requirements for the cDNA deposited under ATCC 209481 was not enabled since "no statement assuring access to the deposits has been provided" and therefore the deposit rules 37 C.F.R. 1.801-1.809 has not been satisfied.

Present amendments to the specification at page 251, line 10 have incorporated assurances that "all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of the pertinent U.S. patent."


Accordingly, a person in the art would have access to the deposit made and hence, the present rejection should be withdrawn.

The present application is believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 08-1641 (Attorney Docket No.: 39780-1618P2C48). Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: May 5, 2005


Daphne Reddy
Reg. No. 53,507

HELLER EHRMAN, LLP
Customer No. 35489
275 Middlefield Road
Menlo Park, California 94025
Telephone: (650) 324-7000
Facsimile: (650) 324-0638

SV 2112612 v1
5/5/05 1:37 PM (39780.1618)